

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:20-HC-02088-FL**

CHARLES HALLINAN, JOSEAN KINARD,)
ARNOLD J. HILL, BENJAMIN D. MCRAE,)
JOHN DAILEY, LEE M. AYERS, GEORGE B.)
RIDDICK, JORGE LUIS MALDONADO,)
ANTWAN HARRIS, ANTHONY BUTLER, and)
TROY A. TITUS, on behalf of themselves and)
similarly situated individuals,)

Petitioners/Plaintiffs,)

v.)

THOMAS SCARANTINO, Complex Warden,)
Federal Correctional Complex Butner;)
MICHAEL CARVAJAL, Federal Bureau of)
Prisons Director; and JEFFERY ALLEN,)
Federal Bureau of Prisons Medical Director, in)
their official capacities,)

Respondents/Defendants.)

**DECLARATION OF JEFFREY S.
WILKERSON IN SUPPORT OF
PETITIONERS/PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER, PRELIMINARY INJUNCTION,
AND WRIT OF HABEAS CORPUS**

I, Jeffrey S. Wilkerson, declare as follows:

1. I am an attorney licensed to practice law in North Carolina and admitted to this Court, a partner at Winston & Strawn LLP, and counsel for Plaintiffs/Petitioners in this matter. I have personal knowledge of the facts herein.

2. Exhibit 1 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Lee M. Ayers. This exhibit is a more recent declaration from Mr. Ayers, which followed an opportunity for further discussion with Mr. Ayers, than the one filed with the Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 and Class Action Complaint for Injunctive and Declaratory Relief in this case.

3. Exhibit 2 is a true and accurate copy of the Declaration of Plaintiff/Petitioner John Dailey.

4. Exhibit 3 is a true and accurate copy of the Declaration of Roger Duane Goodwin.

5. Exhibit 4 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Charles Hallinan.

6. Exhibit 5 is a true and accurate copy of the Declaration of Michael Harrington.

7. Exhibit 6 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Antwan Harris.

8. Exhibit 7 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Arnold J. Hill.

9. Exhibit 8 is a true and accurate copy of the Declaration of Lewis Donnell Huntley.

10. Exhibit 9 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Josean Kinard.

11. Exhibit 10 is a true and accurate copy of the Declaration of John Krokos.

12. Exhibit 11 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Jorge Luis Maldonado.

13. Exhibit 12 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Benjamin D. McRae. This exhibit has been adjusted to correct a spelling error, but it does not otherwise differ from the version filed with the Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 and Class Action Complaint for Injunctive and Declaratory Relief in this case.

14. Exhibit 13 is a true and accurate copy of the Declaration of Randy Flores Ortiz.

15. Exhibit 14 is a true and accurate copy of the Declaration of Plaintiff/Petitioner George B. Riddick.

16. Exhibit 15 is a true and accurate copy of the Declaration of Plaintiff/Petitioner Troy A. Titus.

17. Exhibit 16 is a true and accurate copy of the Declaration of William Robert Whyte.

18. Exhibit 17 is a true and accurate copy of the Declaration of Dr. Chris Beyrer, M.D., M.P.H.

19. Exhibit 18 is a true and accurate copy of the Declaration of Dr. Joe Goldenson, M.D.

20. Exhibit 19 is a true and accurate copy of the Declaration of Expert Dan Pacholke.

21. Exhibit 20 is a true and accurate copy of the U.S. Department of Justice, Federal Bureau of Prisons Press Releases on Inmate Deaths at FCC Butner. This exhibit has been updated to include press releases for two additional deaths at FCC Butner that were not available at the time of filing the Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 and Class Action Complaint for Injunctive and Declaratory Relief in this case.

22. Exhibit 21 is a true and accurate copy of a March 26, 2020 memorandum from Attorney General William Barr titled *Memorandum for Director of Bureau of Prisons*, which is available online at <https://www.justice.gov/file/1262731/download> (last accessed May 21, 2020).

23. Exhibit 22 is a true and accurate copy of an April 3, 2020 memorandum from Attorney General William Barr titled *Memorandum for Director of Bureau of Prisons*, which is available online at <https://www.justice.gov/file/1266661/download> (last accessed May 21, 2020).

24. Exhibit 23 is a true and accurate copy of an April 13, 2020 memorandum from Andre Matevousian and L. Cristina Griffith titled *Memorandum for All Chief Executive Officers*, which is available online at <https://prisonology.com/wp-content/uploads/2020/04/COVID-19-Phase-6-Plan-2020-04-13.pdf> (last accessed May 21, 2020).

25. Exhibit 24 is a true and accurate copy of *Social Distancing, Quarantine, and Isolation*, Centers for Disease Control and Prevention, which is available online at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>, (last accessed May 22, 2020).

26. Exhibit 25 is a true and accurate copy of *How to Protect Yourself & Others*, Centers for Disease Control and Prevention, which is available online at, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>, (last accessed May 22, 2020).

27. Exhibit 26 is a true and accurate copy of *How COVID-19 Spreads*, Centers for Disease Control and Prevention, which is available online at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last accessed May 26, 2020).

28. Exhibit 27 is a true and accurate copy of *Coronavirus Disease 2019 (COVID-19): Assessing Risk Factors*, Centers for Disease Control and Prevention (Apr. 23, 2020), which is available online at <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/assessing-risk-factors.html>, (last accessed May 22, 2020).

29. Exhibit 28 is a true and accurate copy of *Older Adults*, Centers for Disease Control and Prevention, which is available online at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html> (last accessed on May 22, 2020).

30. Exhibit 29 is a true and accurate copy of *COVID-19 in Correctional and Detention Facilities – United States, February-April 2020*, Centers for Disease Control and Prevention, which is available online at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e1.htm>, (last accessed May 22, 2020).

31. Exhibit 30 is a true and accurate copy of *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, Centers for Disease Control and Prevention, which is available online at <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>, (last accessed on May 22, 2020).

32. Exhibit 31 is a true and accurate copy of the Opposition to Defendant Wesam El-Hanafi's Motion for Compassionate Release, *United States v. El-Hanafi*, No. 1:10-cr-00162-KMW (S.D.N.Y. May 13, 2020), ECF No. 247, at 16.

33. Exhibit 32 is a true and accurate copy of Defendant Thompson's Status Report on Compassionate Release Motion and Request for Additional Court Action, *United States v. Thompson*, No. 1:15-cr-00448 (E.D. Ill. Apr. 20, 2020), ECF No. 247, at 2.

34. Exhibit 33 is a true and accurate copy of the Opinion and Order, *United States v. Wesam El-Hanafi*, No. 1:10-cr-00162-KMW (S.D.N.Y. May 19, 2020), ECF No. 225.

35. Exhibit 34 is a true and accurate copy of the Criminal Minutes-General, *United States v. Krokos, et al.*, No. 2:12-cr-00527-GW-1 (C.D. Cal. May 1, 2020), ECF No. 1016.

36. Exhibit 35 is a true and accurate copy of the Notification of Docket Entry, *United States v. Thompson*, No. 1:15-cr-00448 (N.D. Ill. April 17, 2020), ECF No. 80.

37. Exhibit 36 is a true and accurate copy of a screenshot from an archived version of www.bop.gov/coronavirus, which, according to the Internet Archive, was captured on March 31, 2020. The full version of the archived webpage is available online at <https://web.archive.org/web/20200331193759/https://www.bop.gov/coronavirus/>."

38. Exhibit 37 is a true and accurate copy of a screenshot of the Federal Bureau of Prisons' COVID-19 website at <https://www.bop.gov/coronavirus/index.jsp>, taken on April 27, 2020, and sorted to show data related to FCC Butner.

Executed on May 28, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Jeffrey S. Wilkerson

Jeffrey S. Wilkerson [N.C. State Bar No. 51209]

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CERTIFICATE OF SERVICE

I, Jeffrey S. Wilkerson, hereby certify that a true copy of the foregoing was served on Respondents/Defendants' counsel of record with the Clerk of the Court via the CM/ECF Document Filing System.

This 28th day of May, 2020.

/s/ Jeffrey S. Wilkerson_____

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